

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
GREENEVILLE DIVISION**

JOSHUA GIBBONS,

Plaintiff,

v.

DALE PHIPPS, et al.,

Defendants.

No. 2:23-cv-00138-TAV-CRW

JOINT MOTION TO STAY

In accordance with Fed. R. Civ. P. 7(b) and E.D. Tenn. L.R. 7, Plaintiff Joshua Gibbons and Defendants City of Kingsport, Dale Phipps, Jason Bellamy, Sean Chambers, Martin Taylor, Darell Johnson, Robert Mills, and Daniel Horne (the “Parties”) jointly move for the entry of the attached proposed Order for a stay of this matter pending the resolution of related state criminal proceedings. In support of this motion, the Parties state as follows:

1. Plaintiff is awaiting trial de novo in a criminal case pending before the Sullivan County Circuit Court, captioned *State of Tennessee v. Joshua Daniel Gibbons*, No. 82CC1-2023-CR-77097. Plaintiff has moved the county court to dismiss that case on First Amendment grounds. The next hearing in that matter is currently set for March 8, 2024.

2. Plaintiff’s Complaint in this matter, ECF No. 1, asserts claims arising out of the same underlying events as the ongoing state criminal case.

3. Staying this action pending the resolution of the state court criminal case is appropriate under the *Younger* abstention doctrine. *Younger v. Harris*, 410 U.S. 37 (1971). *Younger* abstention favors a stay in civil rights tort actions “parallel to pending state court proceedings” to afford the state court the first opportunity to remedy any constitutional violations. *Gottfried v. Med. Plan. Servs.*, 142 F.3d 326, 329, 333 (6th Cir. 1998) (citation omitted). The *Younger* abstention doctrine applies where there is (1) a “currently pending” state court proceeding, that (2) “involves an important state interest, and (3) affords the plaintiff an adequate opportunity to raise constitutional” defenses. *Carroll v. City of Mount Clemens*, 139 F.3d 1072, 1074 (6th Cir. 1998). The Parties agree that each of these elements is presently satisfied.

4. Even if a stay were not the appropriate procedure under *Younger* abstention, it would also be appropriate for this Court to stay these proceedings under its inherent authority to manage its docket. Courts in the Sixth Circuit consider six factors when weighing whether to stay a case: (1) the extent to which issues in the criminal case overlap those in the civil case; (2) the status of the criminal case, including whether the defendant has been charged; (3) the interests of the plaintiff in proceeding expeditiously weighed against the prejudice to plaintiff cause by the delays; (4) the private interests of and burden on the defendants; (5) the interests of the courts; and (6) the public interest. *FTC v. E.M.A. Nationwide, Inc.*, 767 F.3d 611, 626–27 (6th Cir. 2014). The Parties agree that the

balancing of these factors weighs in favor of staying these proceedings pending resolution of the related ongoing state criminal case.

The Parties hereby request that this Court enter an order staying all proceedings and deadlines in this action pending final resolution of Plaintiff's state criminal matter.

Dated: January 16, 2024

/s/ J. Christopher Rose⁺

J. Christopher Rose (BPR #028106)

Sydney B. Gilbert (BPR #036022)

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⁺ *Signed by Adam Steinbaugh with permission of J. Christopher Rose*

Counsel for Defendants

Respectfully submitted,

/s/ Adam Steinbaugh

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AND EXPRESSION

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